

Executive Summary – Enforcement Matter – Case No. 42271

City of Cotulla

RN101920148

Docket No. 2011-1421-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Cotulla WWTF, located approximately 1.1 miles south of the intersection of State Highway 97 and State Highway 624 and 1.1 miles southeast of the intersection of United States Highway-Business 81 and State Highway 97, La Salle County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 30, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,680

Amount Deferred for Expedited Settlement: \$1,536

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$6,144

Name of SEP: Tire Collection Event

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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City of Cotulla
RN101920148
Docket No. 2011-1421-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: July 18, 2011
Date(s) of NOE(s): August 1, 2011

Violation Information

Failed to comply with permitted effluent limitations for total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010153001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010153001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223

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City of Cotulla

RN101920148

Docket No. 2011-1421-MWD-E

Respondent: The Honorable Joe R. Lozano, Mayor, City of Cotulla, 117 North Front Street, Cotulla, Texas 78014

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-1421-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Cotulla
Penalty Amount:	Six Thousand One Hundred Forty-Four Dollars (\$6,144)
SEP Offset Amount:	Six Thousand One Hundred Forty-Four Dollars (\$6,144)
Type of SEP:	Custom
Project Name:	Tire Collection Event
Location of SEP:	LaSalle County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hold a one-day event for the collection of used tires for proper disposal (the "Project"). The event will be advertised in the local newspaper of largest circulation and will include the required enforcement statement as stated in Section 6, Publicity, below. UTW, located in Laredo, Texas, will be the authorized tire contractor. Citizens will be invited to drop off tires at the Cotulla Transfer Station collection site located at 827 FM 624, approximately 0.8 miles southeast of the intersection of SH 97 in Cotulla, LaSalle County, Texas. The contractor will pick up and transport the tires to the UTW facility located at 401 Thiesel Road in Laredo, Texas, and process the tires for disposal. Respondent agrees to properly and timely dispose of all tires collected, including any amount that exceeds the amount required to offset the Payable Penalty in this enforcement action.

Respondent shall ensure that the event:

- is advertised to the public and includes a statement that the Project is being performed as a Supplemental Environmental Project
- occurs on a specified day of the weekend during daylight hours
- offers to the public a convenient drop-off location, and
- includes transport and proper disposal of tires

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project and no portion shall be spent on administrative costs.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to do this Project and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with illegal tire sites.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the time-frame required in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin Project
90	Actions taken during previous 60-day period to implement the Project
180	Actions taken during previous 90-day period to implement the Project
270	Actions taken during previous 90-day period to implement the Project
365	Notice of SEP completion

B. Final Report

Within 60 days after completion of SEP, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which includes:

1. An itemized list of expenditures and total cost incurred;
2. Copies of all invoices, paid receipts, and checks or other verifying documentation;
3. Dated photographs of the Project;

4. A map identifying the location(s) of the collection site(s);
5. Copies of proof of advertisement of the event (the advertisement must include the statement that **the SEP was performed as a result of a TCEQ enforcement action**);
6. A certified/notarized statement of the quantifiable environmental benefits. The Respondent must quantify the environmental benefit of the Project; and
7. A count on the types of tires collected, i.e. passenger, truck, etc.;
8. Manifests sufficient to show proof of proper disposal and/or recycling of the collected tires;
9. Any additional information that will demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-31087

4. Additional Information and Access

Respondent shall provide additional information as required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that the Project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Aug-2011	Screening	10-Aug-2011	EPA Due	
	PCW	10-Aug-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Cotulla		
Reg. Ent. Ref. No.	RN101920148		
Facility/Site Region	16-Laredo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	42271	No. of Violations	1
Docket No.	2011-1421-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	JR Cao
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$4,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **102.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,080**

Notes: Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, 15 months of self-reported effluent violations, and one order with denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$967
Approx. Cost of Compliance \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,080**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-5.0%** **Adjustment** **-\$400**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction in penalty to ensure that monthly self-reported violations do not overly impact the penalty amount.

Final Penalty Amount **\$7,680**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$7,680**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,536**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$6,144**

Screening Date 10-Aug-2011

Docket No. 2011-1421-MWD-E

PCW

Respondent City of Cotulla

Policy Revision 2 (September 2002)

Case ID No. 42271

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101920148

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	16	80%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 102%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, 15 months of self-reported effluent violations, and one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 102%

Screening Date 10-Aug-2011

Docket No. 2011-1421-MWD-E

PCW

Respondent City of Cotulla

Policy Revision 2 (September 2002)

Case ID No. 42271

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101920148

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010153001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review on July 18, 2011, and as shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

213 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	X		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$967

Violation Final Penalty Total \$7,680

This violation Final Assessed Penalty (adjusted for limits) \$7,680

Economic Benefit Worksheet

Respondent City of Cotulla
Case ID No. 42271
Reg. Ent. Reference No. RN101920148
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-May-2010	6-May-2012	1.93	\$967	n/a	\$967

Notes for DELAYED costs

Estimated cost to investigate the non-compliance and implement corrective actions. Date required is the first date of non-compliance. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$967

EFFLUENT VIOLATION TABLE							
City of Cotulla							
TPDES Permit No. WQ0010153001							
Docket No. 2011-1421-MWD-E							
Parameter	Months						
	May 2010	August 2010	October 2010	November 2010	January 2011	February 2011	March 2011
Total Suspended Solids Daily Average Concentration Limit = 15 mg/L	17	20	20	19	17	16	16

mg/L = milligrams per liter

Compliance History

Customer/Respondent/Owner-Operator: CN600647408 City of Cotulla Classification: AVERAGE Rating: 3.07

Regulated Entity: RN101920148 CITY OF COTULLA WWTF Classification: AVERAGE Site Rating: 4.12

ID Number(s): WASTEWATER PERMIT WQ0010153001
WASTEWATER EPA ID TX0027499
WASTEWATER LICENSING LICENSE WQ0010153001

Location: Approximately 1.1 miles south of the intersection of State Highway 97 and State Highway 624 and 1.1 miles southeast of the intersection of United States Highway-Business 81 and State Highway 97, La Salle County, Texas

TCEQ Region: REGION 16 - LAREDO

Date Compliance History Prepared: August 10, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 10, 2006 to August 10, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: JR Cao Phone: (512) 239-2543

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator?
N/A
4. If Yes, who was/were the prior owner(s)/operator(s)?
N/A
5. When did the change(s) in owner or operator occur?
N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 07/20/2009

ADMINORDER 2009-0044-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Rqmt Prov: Permit Conditions 2g PERMIT

Description: Failure to prevent Sanitary Sewer Overflows (SSO).

Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: Monitoring & Reporting Requirements 3 PERMIT

Description: Failure to maintain temperature logs as required.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/18/2006 (522168)

2 09/20/2006 (522169)

3 10/19/2006 (546837)

4	11/16/2006	(546838)	34	03/23/2009	(751612)
5	12/18/2006	(546839)	35	01/21/2009	(751613)
6	08/16/2007	(570842)	36	08/20/2009	(766557)
7	02/16/2007	(579161)	37	04/16/2009	(769387)
8	03/20/2007	(579162)	38	02/19/2010	(791206)
9	04/24/2007	(579163)	39	02/22/2010	(807821)
10	05/15/2007	(579164)	40	05/11/2009	(807822)
11	06/20/2007	(579165)	41	06/15/2009	(807823)
12	07/26/2007	(579166)	42	07/10/2009	(807824)
13	01/22/2007	(579167)	43	10/20/2009	(807825)
14	08/10/2007	(602721)	44	09/11/2009	(807826)
15	09/14/2007	(621013)	45	10/13/2009	(807827)
16	10/08/2007	(621014)	46	11/17/2009	(807828)
17	11/14/2007	(621015)	47	12/21/2009	(807829)
18	05/12/2008	(654045)	48	03/24/2010	(832041)
19	02/19/2008	(673145)	49	05/21/2010	(832042)
20	03/18/2008	(673146)	50	01/20/2010	(832043)
21	12/18/2007	(673147)	51	06/17/2010	(846626)
22	01/15/2008	(673148)	52	04/22/2010	(861178)
23	04/15/2008	(691295)	53	07/21/2010	(861179)
24	05/21/2008	(691296)	54	08/18/2010	(867272)
25	06/12/2008	(691297)	55	09/16/2010	(874314)
26	11/25/2008	(702378)	56	11/30/2010	(879615)
27	07/15/2008	(712194)	57	11/09/2010	(881904)
28	08/20/2008	(712195)	58	12/14/2010	(888393)
29	09/16/2008	(712196)	59	12/15/2010	(896685)
30	10/17/2008	(728524)	60	01/13/2011	(902678)
31	11/13/2008	(728525)	61	02/17/2011	(909482)
32	12/09/2008	(728526)	62	03/11/2011	(926105)
33	02/16/2009	(751611)	63	04/19/2011	(926106)

64 05/20/2011 (938437)

66 06/22/2011 (945804)

65 08/02/2011 (941316)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/31/2006 (579167) CN600647408
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2007 (579162) CN600647408
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2007 (579163) CN600647408
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/16/2007 (570842) CN600647408
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)
Description: Failure to prevent an unauthorized discharge from the plant or collection system since the last CCI.

Date: 01/31/2009 (751611) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2010 (807821) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2010 (832041) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2010 (846626) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2010 (874314) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/13/2010 (879615) CN600647408
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to properly operate and maintain drying beds.

Date: 10/31/2010 (888393) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2010 (896685) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2011 (909482) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2011 (926105) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2011 (926106) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2011 (938437) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2011 (945804) CN600647408
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF COTULLA
RN101920148**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-1421-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Cotulla ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 1.1 miles south of the intersection of State Highway 97 and State Highway 624 and 1.1 miles southeast of the intersection of United States Highway-Business 81 and State Highway 97 in La Salle County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 6, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Six Hundred Eighty Dollars (\$7,680) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). One Thousand Five Hundred Thirty-Six Dollars (\$1,536) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Six Thousand One Hundred Forty-Four Dollars (\$6,144) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010153001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 18, 2011, and shown in the following violation table:

EFFLUENT VIOLATION TABLE							
Parameter	Months						
	May 2010	August 2010	October 2010	November 2010	January 2011	February 2011	March 2011
Total Suspended Solids Daily Average Concentration Limit = 15 mg/L	17	20	20	19	17	16	16

mg/L = milligrams per liter

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Cotulla, Docket No. 2011-1421-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand One Hundred Forty-Four Dollars (\$6,144) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010153001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

4/11/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

2/21/2012
Date

Joe R. Lozano
Name (Printed or typed)
Authorized Representative of
City of Cotulla

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2011-1421-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Cotulla
Penalty Amount:	Six Thousand One Hundred Forty-Four Dollars (\$6,144)
SEP Offset Amount:	Six Thousand One Hundred Forty-Four Dollars (\$6,144)
Type of SEP:	Custom
Project Name:	Tire Collection Event
Location of SEP:	LaSalle County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hold a one-day event for the collection of used tires for proper disposal (the "Project"). The event will be advertised in the local newspaper of largest circulation and will include the required enforcement statement as stated in Section 6, Publicity, below. UTW, located in Laredo, Texas, will be the authorized tire contractor. Citizens will be invited to drop off tires at the Cotulla Transfer Station collection site located at 827 FM 624, approximately 0.8 miles southeast of the intersection of SH 97 in Cotulla, LaSalle County, Texas. The contractor will pick up and transport the tires to the UTW facility located at 401 Thiesel Road in Laredo, Texas, and process the tires for disposal. Respondent agrees to properly and timely dispose of all tires collected, including any amount that exceeds the amount required to offset the Payable Penalty in this enforcement action.

Respondent shall ensure that the event:

- is advertised to the public and includes a statement that the Project is being performed as a Supplemental Environmental Project
- occurs on a specified day of the weekend during daylight hours
- offers to the public a convenient drop-off location, and
- includes transport and proper disposal of tires

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project and no portion shall be spent on administrative costs.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to do this Project and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with illegal tire sites.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the time-frame required in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin Project
90	Actions taken during previous 60-day period to implement the Project
180	Actions taken during previous 90-day period to implement the Project
270	Actions taken during previous 90-day period to implement the Project
365	Notice of SEP completion

B. Final Report

Within 60 days after completion of SEP, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which includes:

1. An itemized list of expenditures and total cost incurred;
2. Copies of all invoices, paid receipts, and checks or other verifying documentation;
3. Dated photographs of the Project;

4. A map identifying the location(s) of the collection site(s);
5. Copies of proof of advertisement of the event (the advertisement must include the statement that **the SEP was performed as a result of a TCEQ enforcement action**);
6. A certified/notarized statement of the quantifiable environmental benefits. The Respondent must quantify the environmental benefit of the Project; and
7. A count on the types of tires collected, i.e. passenger, truck, etc.;
8. Manifests sufficient to show proof of proper disposal and/or recycling of the collected tires;
9. Any additional information that will demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-31087

4. Additional Information and Access

Respondent shall provide additional information as required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that the Project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.